

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

FILED

MAR 31 2017

CARMELITA REEDER SHINN, CLERK
U.S. DIST. COURT, WESTERN DIST. OKLA.
BY KB DEPUTY

Billy Butler

(Enter the full name of the plaintiff.)

CIV - 17 - 364 F

v.

Case No. _____
(Court Clerk will insert case number)

(1) Nector Oliver Gordon

(2) C/o Clark

(3) C/o Gordon

(Enter the full name of each defendant. Attach additional sheets as necessary.)

PRO SE PRISONER CIVIL RIGHTS COMPLAINT

Initial Instructions

1. You must type or legibly handwrite the Complaint, and you must answer all questions concisely and in the proper space. Where more space is needed to answer any question, you may attach a separate sheet.
2. You must provide a full name for each defendant and describe where that defendant resides or can be located.
3. You must send the original complaint and one copy to the Clerk of the District Court.
4. You must pay an initial fee of \$400 (including a \$350 filing fee and a \$50 administrative fee). The complaint will not be considered filed until the Clerk receives the \$400 fee or you are granted permission to proceed *in forma pauperis*.
5. If you cannot prepay the \$400 fee, you may request permission to proceed *in forma pauperis* in accordance with the procedures set forth in the Court's form application to proceed *in forma pauperis*. See 28 U.S.C. § 1915; Local Civil Rule 3.3.

- If the court grants your request, the \$50 administrative fee will not be assessed and your total filing fee will be \$350.
- You will be required to make an initial partial payment, which the court will calculate, and then prison officials will deduct the remaining balance from your prison accounts over time.
- These deductions will be made until the entire \$350 filing fee is paid, **regardless of how the court decides your case.**

7. The Court will review your complaint before deciding whether to authorize service of process on the defendants. *See* 28 U.S.C. §§ 1915(e)(2), 1915A; 42 U.S.C. § 1997e(c)(1). If the Court grants such permission, the Clerk will send you the necessary instructions and forms.

8. If you have been granted permission to proceed *in forma pauperis*, the United States Marshals Service will be authorized to serve the defendants based on information you provide. If you have not been granted permission to proceed *in forma pauperis*, you will be responsible for service of a separate summons and copy of the complaint on each defendant in accordance with Rule 4 of the Federal Rules of Civil Procedure.

COMPLAINT

I. Jurisdiction is asserted pursuant to:

☒ 42 U.S.C. § 1983 and 28 U.S.C. § 1343(a)(3) (NOTE: these provisions generally apply to state prisoners), or

☐ *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971), and 28 U.S.C. § 1331 (NOTE: these provisions generally apply to federal prisoners)

If you want to assert jurisdiction under different or additional statutes, list these below:

II. State whether you are a:

- ☒ Convicted and sentenced state prisoner
☐ Convicted and sentenced federal prisoner
☐ Pretrial detainee
☐ Immigration detainee
☐ Civilly committed detainee
☐ Other (please explain) _____

III. Previous Federal Civil Actions or Appeals

List each civil action or appeal you have brought in a federal court while you were incarcerated or detained in any facility.

1. Prior Civil Action/Appeal No. 1

a. Parties to previous lawsuit:

Plaintiff(s): N/A

Defendant(s): N/A

b. Court and docket number: N/A

c. Approximate date of filing: N/A

d. Issues raised: N/A

e. Disposition (for example: Did you win? Was the case dismissed? Was summary judgment entered against you? Is the case still pending? Did you appeal?): N/A

f. Approximate date of disposition: N/A

If there is more than one civil action or appeal, describe the additional civil actions or appeals using this same format on a separate sheet(s).

IV. Parties to Current Lawsuit

State information about yourself and each person or company listed as a defendant in the caption (the heading) of this complaint.

1. Plaintiff

Name and any aliases: Billy Butler

Address: 8607 SE Flower Mound Rd Lawton, Ok 73501

Inmate No.: 521325

2. Defendant No. 1

Name and official position: Hector Pries / Warden of Lawton Correctional Facility. Acting under Color of State Law

Place of employment and/or residence: Lawton Correctional Facility
8607 SE Flower Mound Rd. Lawton, Ok 73501

How is this person sued? () official capacity, (☒) individual capacity, () both

3. Defendant No. 2

Name and official position: Latoya Dawson / Lieutenant over the unit where Plaintiff was attacked. Acting under Color of State Law

Place of employment and/or residence: 8607 SE Flower Mound Rd. Lawton, Ok 73501

How is this person sued? () official capacity, (☒) individual capacity, () both

If there are more than two defendants, describe the additional defendants using this same format on a separate sheet(s).

Defendant's Continued:

4. Defendant No. 3.

Name and Official Position: C/o Clark/Correctional Officer. At the time I was stabbed multiple times, C/o Clark was acting under color of State Law. How is this person sued? ☐ Official capacity

☒ Individual capacity ☐ Both

Clark is being sued in her Individual Capacity

5. Defendant No. 4.

Name and Official Position: Gordon/Correctional Officer. At the time I was stabbed multiple times, C/o Gordon was acting under color of State Law.

How is this person sued? ☐ Official capacity ☒ Individual capacity

☐ Both

Gordon is being sued in her Individual Capacity

6. Do not include claims relating to your criminal conviction or to prison disciplinary proceedings that resulted in loss of good time credits.
- If a ruling in your favor "would necessarily imply the invalidity" of a criminal conviction or prison disciplinary punishment affecting the time served, then you cannot make these claims in a civil rights complaint unless you have already had the conviction or prison disciplinary proceeding invalidated, for example through a habeas proceeding.

Claims

List the federal right(s) that you believe have been violated, and describe what happened. Each alleged violation of a federal right should be listed separately as its own claim.

1. Claim 1:

- (1) List the right that you believe was violated:

my 8th Amendment Right to be free from harm were violated when defendant's Gordon and Clark conspired and became complicit with African Brotherhoods and deliberately and intentionally opened the door of these known prison gang members to have Plaintiff killed. Defendant's Gordon and Clark are both

- (2) List the defendant(s) to this claim: (If you have sued more than one defendant, specify each person or entity that is a defendant for this particular claim.)

Keston Rios is a defendant due to he knew of the danger I would face
C/O Gordon is a defendant due to she opened the door so that I could be attacked
C/O Clark conspired with Gordon to not notify the Rover a door was ajar.
Lieutenant Dawson was the defendant over the unit where the altercation occurred.
Lieutenant Dawson had been warned prior to the assault by African American inmates concerning Gordon and that potential danger loomed and was evident and abundantly clear an attack was going to occur. (SEE ATTACHED Exhibits)
(Of inmates who witnessed The Attack)

↑ Claim 1 Continued ↓

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1. Claim 1 continued, Plaintiff says, This attack happen due to Plaintiff had previously had an argument with defendant Gordon. Due to her discriminating against Plaintiff, Plaintiff was told By Defendant Gordon you will learn to watch your mouth. This conversation took place on the intercom in Plaintiff's cell. Plaintiff did not know defendant Gordon was listening in on a conversation between Plaintiff and his cellmate. Defendant Gordon opened the door of the Aryan inmates and allowed them to stick a "Rig" in there door. The Aryan inmates placed the rig in the door and waited for Plaintiff to be shackled at the feet and handcuffed behind his Back. When Plaintiff walked by, The Aryan inmates came out of there cell and started stabbing Plaintiff repeatedly, all over Plaintiff's body. As stated previously Plaintiff was handcuffed behind his back and shackled at the feet. Sevrar African American inmates had warned Plaintiff to Be careful, Due to Gordon will "pop" doors for the Aryans. therefore Plaintiff asked the guards before he ever exited the cell "Y'all not going to set me up are you?" This is maximum security. The doors must be opened from the control room. The inmates can't open their doors from the inside. AS of this date, The Aryans are still bragging about severely wounding me, Each time Gordon enters the Pod the Aryans all salute her. Due to the actions of defendant Gordon, Plaintiff was [REDACTED] SAVagely attacked, Plaintiff now suffers from schizophrenia and P.T.S.D. along with the pain in his Back and neck. Defendant Gordon is guilty of "deliberate indifference" Defendant Gordon clearly violated Plaintiff's 8th Amendmet Rights guaranteed to Plaintiff under the united States Constitution to Be free from harm when defendant Gordon conspired and became complicit with known Aryan Brotherhood

Prison gang members Defendant Gordon "deliberately and intentionally" set Plaintiff up to be attacked, due to the actions of Defendant Gordon Plaintiff request a jury trial.

(3) List the supporting facts:

Defendant Rice knew or reasonably should have known that when he opened/created a unit to get more funds from the state of Oklahoma, that if he placed rival gang members on the same pad right next door to each other with corrupt staff such as Gordon and Clark, an attack would be imminent.

(4) Relief requested: (State briefly exactly what you want the court to do for you.)

2. Claim II:

(1) List the right that you believe was violated:

Defendant Clark relieved defendant Gordon in the control room on April 6, 2016. However, defendant Gordon stayed late. Well after her 2pm shift had ended. She then entered the pad and went to the door of the Asian inmates. Defendant Clark knew the door of the Asian inmates were opened. Due to the controls

(2) List the defendant(s) to this claim: (If you have sued more than one defendant, specify each person or entity that is a defendant for this particular claim.)

Lieutenant Gatoya Dawson is and was employed as a Lieutenant at JCF at the time Plaintiff was attacked. Plaintiff and several other inmates had warned and complained to Lieutenant Dawson concerning defendant Gordon and her willingness to aid Asian inmates. Several inmates stated to defendant Dawson

Defendant Dawson claim

Continued →

2. Claim II continued:

(1) Just the right that you believe was violated: will show if a rig is in the door. It is the duty of the guard in the control room to notify the Rover or the other guard if the controls show open.

Defendant Clark did not notify the guard. Due to defendant Clark along with defendant Gordon wanted Plaintiff hurt. The control panel clearly showed the Aryan inmates door was opened prior to them coming out. Defendant Clark came on the intercom in Plaintiff's cell and asked "Are you going to see tough guy?" Plaintiff responded: yes, if you not going to set me up." Defendant Clark knew their door was ajar, but said nothing to the Rover. Defendant Clark sat idly by and watched Plaintiff stabbed repeatedly within an inch of his life. Defendant Clark deliberately and intentionally set Plaintiff up to be attacked. Violating Plaintiff's 8th Amend Right given to him under the U.S.C.A. Thus, making defendant Clark "deliberately indifferent" to Plaintiff. Plaintiff hereby request a jury trial/demand

Claim Continued Concerning Defendant Dawson: "If you weren't forcing ~~us~~ to wear handcuffs behind her back and shackles on our feet.

It wouldn't be a big deal. We wouldn't involve you or the other guards. But since we are defenseless, you'll need to move

Gordon. You'll know she works with them. Defendant Dawson laughed and stated: "If you that damn scared, just stay in your cell."

Plaintiff is locked in a cell (24 hrs) twenty four hours a day. Plaintiff will occasionally go to recreation for fresh air to try to keep his faculties in order.

Plaintiff should be able to go to recreation without a corrupt Aryan sympathizer deliberately and intentionally opening a door for Aryan's to have Plaintiff stabbed within a inch of his life. Defendant Dawson was warned about defendant Gordon.

Defendant Dawson was alerted of the possible danger and failed to act.

Defendant Dawson was the ranking officer over the unit. Once defendant Dawson knew of the alleged actions of defendant Gordon, Defendant Dawson had a duty by policy and law to respond and put forth a concerted effort

to rectify the problem. Defendants Gordon and Clark were direct subordinates of defendant Dawson. When Plaintiff returned from the civilian hospital with

multiple stab wounds and a punctured lung. Plaintiff stated to defendant Dawson

"I told you she was dirty." (Referring to defendant Gordon) Defendant

Dawson stated "It was a mistake." "It was an accident." Plaintiff responded by stating it was not an accident.

They opened the door for them. And I told you Dawson and you still didn't do anything! At this time Defendant Dawson stated "If you keep your mouth shut, you might make it out. That mouth is what got you done like that." End of Quote

(3) List the supporting facts:

Defendant Rios placed known rival gang members next door to each other. Defendant Rios has heard for himself the threats made by the Arjanis. Defendant Rios knew that the Arjanis wanted to kill me. Due to he informed me of this fact. Defendant Rios knew or reasonably should have

(4) Relief requested: (State briefly exactly what you want the court to do for you.)

- 1.) Plaintiff seeks a declaratory judgment that the acts, policy and practices of all defendants violated his constitutional rights and civil rights
- 2.) Plaintiff seeks punitive damages from each defendant of \$500,000 in the sum of 2,000,000 Two million dollars.
- 3.) Plaintiff is seeking \$500,000 from each defend-

If there are more than two claims that you wish to assert, describe the additional claims using this same format on a separate sheet(s).

VI. Declarations

I declare under penalty of perjury that the foregoing is true and correct.

Billy Butler
Plaintiff's Signature

March 23, 2017
Date

I further declare under penalty of perjury that I placed this complaint in the prison's legal mail system, with the correct postage attached, on the _____ day of _____, 2017.

Billy Butler
Plaintiff's Signature

March 23, 2017
Date

known of what would happen if a door was ever opened. Plaintiff's mother was in the Selma area visiting family and happened to be watching KSWO Channel 7 Jauton. KSWO Channel 7 Jauton reported that an inmate had been stabbed and was in serious condition at Jauton Correctional Facility while going to the Chow hall to eat dinner. Plaintiff's mother knew Plaintiff was in Maximum Security and all meals were served to Plaintiff in his cell through a hole in the door. The next morning while watching KSWO Channel 7 Jauton news. Plaintiff's mother saw Plaintiff's picture on the screen and saw Plaintiff had been stabbed multiple times and was in a civilian hospital listed in serious condition. Defendant Rios continued to state on KSWO Channel 7 news Jauton that the assault occurred while the inmates were going to eat dinner on the way to the Chow hall. Two offenders approached Plaintiff and stabbed him repeatedly. Defendant Rios knew that this was a blatant lie! Blatantly as it was untrue. Defendant Rios continued to blatantly misinform the public and taxpayer's of this state, that fund the corrupt Private Prison industry. It should be noted that on August 18, 2016 the Justice Dept found Private Prisons are extremely more violent than state prisons. Due to the staff are poorly trained and more corrupt than the state operated facilities. When Plaintiff returned from the civilian hospital, Plaintiff was in a tremendous amount of pain. Plaintiff was taking multiple medications. Plaintiff

was not slated to be released from the hospital. However, JCF

continued to urge the hospital to release Plaintiff. It was only about money for defendant Rios and the Private Prison Industry.

Not Plaintiff's health! Plaintiff had a punctured lung and it was hard for Plaintiff to breathe. Upon returning to J.C.F.

Plaintiff was placed in the prison infirmary in a cold cell

with nothing but a sheet. Plaintiff knew he he would file a civil action. However, Plaintiff was incapacitated and could barely sit up. Plaintiff could barely write. Plaintiff continued to ask for a Request to Staff. Due to Plaintiff knew he would need to exhaust his administrative remedies in accordance with the

Prisoner's Litigation Reform Act of 1995. Plaintiff also knew of Javon Correctional Facility's history of obstructing inmates so that the inmates could not exhaust the remedies needed to proceed in the Court. Plaintiff request that the video be released of the incident. Therefore, this honorable court can watch the brutal attack for themselves. Several inmates witnessed the

defendants getting statements from Plaintiff's attackers. Stating the guards didn't open the door. Defendant Dawson

stated if they'd write statements JCF would ^{not} press charges.

Therefore, Plaintiff's attackers obliged the defendants. This was done by J.C.F. in case of a civil action was filed. This just shows that there is no length that defendant Rios and his corrupt staff will ^{not} go to mask a coverup of the corrupt actions of their staff. When Plaintiff finally received a Request To Staff, Plaintiff wrote to Warden Rios. Plaintiff put forth a concerted effort to exhaust administrative remedies. However, Plaintiff has been obstructed by J.C.F. The Grievance Coordinator blatantly falsified the document by stating there was no Request To Staff. It is clear that it was. Plaintiff was and is in a lot of pain and has suffered for months and put forth every effort to exhaust administrative remedies. To protect themselves from any civil liability, the Grievance Coordinator will blatantly lie and create reasons to obstruct administrative remedies from being exhausted. As they have done in the past to others. Plaintiff then sent an appeal to the Director in Oklahoma City, Ok. The Director stated

Plaintiff was out of time. Plaintiff was not out of time! Plaintiff was in the hospital and then once Plaintiff was returned from the civilian hospital. Plaintiff was placed in the prison infirmary. Plaintiff was incapacitated and Plaintiff only had (40) ten days to write a Request ~~to~~ Staff. Plaintiff wrote the RTS in (8) eight days. Plaintiff received a response from defendant Rios.

At this time Plaintiff filed a grievance. Plaintiff did not sign the grievance due to Plaintiff was still taking medication. However, Plaintiff's name and Doc# was at the top of the Grievance when Plaintiff attempted to comply. Defendant Rios had a reason. You're out of time. Which was not true. (See RTS Exhibits/Grievances)

Little v. Jones, 1007 F.3d 1245, 1250 (10th Cir. 2010) (citation omitted). A prisoner's duty to exhaust administrative remedies only applies where administrative remedies are available. So, if "prison officials prevent, thwart or hinder a prisoner's efforts to avail himself of an administrative remedy, they render that remedy (unavailable) and [the] court will excuse the prisoner's failure to exhaust." *Little v. Jones*.

Relief Sought Continued

ant for intentional infliction of pain and mental anguish.
Totalling \$ 2,000,000 Two Million Dollars.

4.) Plaintiff seeks \$ 500,000 from each defendant for his
physical injuries done to his chest, ribs, face, head and
punctured lung. Totalling \$ 2,000,000

For A Total Sum of \$ 6,000,000
Six Million Dollars

And any other relief deemed appropriate by
The Court.

Nicky Butler

Pro se Plaintiff